IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

THURSDAY, THE 8TH MARCH 2007 / 17TH PHALGUNA 1928

LA.App..No. 821 of 2004()

LAR.153/2002 of PRL.SUB COURT,KOTTAYAM
.....

APPELLANT: RESPONDENT:

STATE OF KERALA.

BY GOVERNMENT PLEADER SMT.K.R.DEEPA.

RESPONDENTS: CLAIMANT:

VASU, S/O. NEELAKANTAN,
NEDUMNILAMTHANATHU HOUSE, NJEEZHOOR VILLAGE,
VAIKOM.

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 08/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH & K.T.SANKARAN, JJ.

L.A.A.No.821 of 2004

Dated 8th March, 2007.

J U D G M E N T

Kurian Joseph, J.

This appeal is directed against the judgment and decree in L.A.R.No.153/02 on the file of the Principal Sub Court, Kottayam. The acquisition was for the purpose of Kuravilangad Major Distributory. The Land Acquisition Officer fixed the land value at the rate of Rs.8,642/- per Are. The reference court granted an enhancement of Rs.5,185/- per Are. The claimant produced only Ext.A1 document. The court below on a detailed discussion of the evidence came to the conclusion that "the notes to the award further discloses that this land lies near to bus route and is not similar with the acquired land herein and hence the document is not accepted". Still further, it was observed that "the claimant has not proved that the land is more important and there are roads closely adjoining the land". Despite such a finding, the reference court granted enhancement observing as follows :-

> "But at the same time it deserves attention that the land has to be treated to have more importance in view of the fact that there are cultivations and it is not far distant from important institutions."

What is the evidence justifying such an observation and grant of the enhancement is not clear from the judgment. Despite rejection of the evidence adduced by the claimant, in case the land value is to be enhanced, there has to be proper justification on the basis of the appreciation of evidence available on record. Thus we are convinced that the matter requires fresh consideration by the reference court. Accordingly, the appeal is allowed, the judgment and decree in L.A.R.No.153/02 on the file of the Principal Sub Court, Kottayam, are set aside and the matter is remitted to the reference court for fresh consideration. The case shall be disposed of within a period of six months from the date of receipt of a copy of the judgment. In the interests of justice, we make it clear that it will be open to the parties to adduce fresh evidence.

KURIAN JOSEPH, JUDGE.

K.T.SANKARAN, JUDGE.

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KURIAN JOSEPH & K.T.SANKARAN, JJ

L.A.A. NO. OF 2004

J U D G M E N T

Dated 8th March, 2007.